

the amount proposed or answer the notice of violation. The answer to the notice of violation shall state any facts, explanations, and arguments, denying the charges of violation, or demonstrating any extenuating circumstances, error in the notice of violation, or other reason why the penalty should not be imposed and may request remission or mitigation of the penalty.

(c) If the person charged with violation fails to answer within the time specified in paragraph (b) of this section, an order may be issued imposing the civil penalty in the amount set forth in the notice of violation described in paragraph (a) of this section.

(d) If the person charged with violation files an answer to the notice of violation, the Executive Director for Operations or the Executive Director's designee, upon consideration of the answer, will issue an order dismissing the proceeding or imposing, mitigating, or remitting the civil penalty. The person charged may, within twenty (20) days of the date of the order or other time specified in the order, request a hearing.

(e) If the person charged with violation requests a hearing, the Commission will issue an order designating the time and place of hearing.

(f) If a hearing is held, an order will be issued after the hearing by the presiding officer or the Commission dismissing the proceeding or imposing, mitigating, or remitting the civil penalty.

(g) The Executive Director for Operations or the Executive Director's designee, as appropriate may compromise any civil penalty, subject to the provisions of § 2.203.

(h) If the civil penalty is not compromised, or is not remitted by the Executive Director for Operations or the Executive Director's designee, as appropriate, the presiding officer, or the Commission, and if payment is not made within ten (10) days following either the service of the order described in paragraph (c) or (f) of this section, or the expiration of the time for requesting a hearing described in paragraph (d) of this section, the Executive Director for Operations or the Executive Director's designee, as appropriate,

may refer the matter to the Attorney General for collection.

(i) Except when payment is made after compromise or mitigation by the Department of Justice or as ordered by a court of the United States, following reference of the matter to the Attorney General for collection, payment of civil penalties imposed under Section 234 of the Act are to be made payable to the U.S. Nuclear Regulatory Commission, in U.S. funds, by check, draft, money order, credit cards, or electronic funds transfer such as Automated Clearing House (ACH) using Electronic Data Interchange (EDI). Federal agencies may also make payment by the On-Line Payment and Collections System (OPAC's). All payments are to be made in accordance with the specific payment instructions provided with Notices of Violation that propose civil penalties and Orders Imposing Civil Monetary Penalties.

(j) *Amount.* A civil monetary penalty imposed under section 234 of the Atomic Energy Act of 1954, as amended, or any other statute within the jurisdiction of the Commission that provides for the imposition of a civil penalty in an amount equal to the amount set forth in Section 234, may not exceed \$140,000 for each violation. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purposes of computing the applicable civil penalty.

[36 FR 16896, Aug. 26, 1971, as amended at 52 FR 31608, Aug. 21, 1987; 54 FR 53315, Dec. 28, 1989; 61 FR 53555, Oct. 11, 1996; 62 FR 6668, Feb. 12, 1997; 63 FR 31850, June 10, 1998; 65 FR 59272, Oct. 4, 2000; 69 FR 62394, Oct. 26, 2004; 73 FR 54673, Sept. 23, 2008]

**§ 2.206 Requests for action under this subpart.**

(a) Any person may file a request to institute a proceeding pursuant to § 2.202 to modify, suspend, or revoke a license, or for any other action as may be proper. Requests must be addressed to the Executive Director for Operations and must be filed either by hand delivery to the NRC's Offices at 11555 Rockville Pike, Rockville, Maryland; by mail or telegram addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission,

## Nuclear Regulatory Commission

## § 2.302

Washington, DC 20555-0001; or by electronic submissions, for example, via facsimile, Electronic Information Exchange, e-mail, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>; by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov); or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The request must specify the action requested and set forth the facts that constitute the basis for the request. The Executive Director for Operations will refer the request to the Director of the NRC office with responsibility for the subject matter of the request for appropriate action in accordance with paragraph (b) of this section.

(b) Within a reasonable time after a request pursuant to paragraph (a) of this section has been received, the Director of the NRC office with responsibility for the subject matter of the request shall either institute the requested proceeding in accordance with this subpart or shall advise the person who made the request in writing that no proceeding will be instituted in whole or in part, with respect to the request, and the reasons for the decision.

(c)(1) Director's decisions under this section will be filed with the Office of the Secretary. Within twenty-five (25) days after the date of the Director's decision under this section that no proceeding will be instituted or other action taken in whole or in part, the Commission may on its own motion review that decision, in whole or in part, to determine if the Director has abused his discretion. This review power does not limit in any way either the Commission's supervisory power over delegated staff actions or the Commission's power to consult with the staff on a formal or informal basis regarding institution of proceedings under this section.

(2) No petition or other request for Commission review of a Director's de-

cision under this section will be entertained by the Commission.

(3) The Secretary is authorized to extend the time for Commission review on its own motion of a Director's denial under paragraph (c) of this section.

[39 FR 12353, Apr. 5, 1974, as amended at 42 FR 36240, July 14, 1977; 45 FR 73466, Nov. 5, 1980; 52 FR 31608, Aug. 21, 1987; 53 FR 43419, Oct. 27, 1988; 64 FR 48948, Sept. 9, 1999; 68 FR 58799, Oct. 10, 2003; 69 FR 2236, Jan. 14, 2004; 69 FR 41749, July 12, 2004; 74 FR 62679, Dec. 1, 2009]

### **Subpart C—Rules of General Applicability: Hearing Requests, Petitions To Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings**

SOURCE: 69 FR 2236, Jan. 14, 2004, unless otherwise noted.

#### **§ 2.300 Scope of subpart C.**

The provisions of this subpart apply to all adjudications conducted under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and 10 CFR Part 2, unless specifically stated otherwise in this subpart.

#### **§ 2.301 Exceptions.**

Consistent with 5 U.S.C. 554(a)(4) of the Administrative Procedure Act, the Commission may provide alternative procedures in adjudications to the extent that the conduct of military or foreign affairs functions is involved.

#### **§ 2.302 Filing of documents.**

(a) Documents filed in Commission adjudicatory proceedings subject to this part shall be electronically transmitted through the E-Filing system, unless the Commission or presiding officer grants an exemption permitting an alternative filing method or unless the filing falls within the scope of paragraph (g)(1) of this section.